

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

THOMAS L. BOUKNIGHT,	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	Docket # 04-30064-MAP
	)	
THE UNITED STATES DEPARTMENT	)	
OF EDUCATION	)	
Defendant.	)	

**DEFENDANT'S MOTION TO DISMISS**

Now comes the Defendant, pursuant to Fed. R. Civ. P. 12(b)(1), to request that the instant Complaint be dismissed for lack of subject matter jurisdiction. As grounds therefore, the Defendant states that the instant claim is barred by sovereign immunity, fails to state a claim upon which relief may be granted and is time barred.

In support of the Motion, the Defendant submits that attached Memorandum and Exhibit.

Wherefore, the Defendant requests that the Plaintiff's Complaint be dismissed.

Respectfully submitted,  
MICHAEL J. SULLIVAN  
United States Attorney

/s/ Mark J. Grady  
MARK J. GRADY, Assistant U.S. Attorney  
U.S. Attorney's Office  
John Joseph Moakley U.S. Courthouse  
1 Courthouse Way, Suite 9200  
Boston, MA 02210  
Tel. No. (617) 748-3136

Certificate of Compliance

I hereby certify that on July 18, 2004, I attempted to contact the Plaintiff at the phone number listed in the Complaint and was informed I had the wrong number.

/s/ Mark J. Grady  
Mark J. Grady  
Assistant U.S. Attorney

Certificate of Service

I hereby certify that a true copy of the above document was served upon the Plaintiff, at the address listed on the Complaint, 10 Jewett's Court, Lynn, Massachusetts 01902, this 16th day of July 2004.

/s/ Mark J. Grady  
Mark J. Grady  
Assistant U.S. Attorney